

ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE

January 26, 2022

5:19 p.m.

MEMBERS PRESENT

Representative Zack Fields, Co-Chair
Representative Ivy Spohnholz, Co-Chair
Representative Calvin Schrage
Representative Liz Snyder
Representative David Nelson
Representative James Kaufman
Representative Ken McCarty

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 220

"An Act relating to the Public Employees' Retirement System of Alaska and the teachers' retirement system; providing certain employees an opportunity to choose between the defined benefit and defined contribution plans of the Public Employees' Retirement System of Alaska and the teachers' retirement system; and providing for an effective date."

- MOVED HB 220 OUT OF COMMITTEE

HOUSE BILL NO. 159

"An Act establishing the Consumer Data Privacy Act; establishing data broker registration requirements; making a violation of the Consumer Data Privacy Act an unfair or deceptive trade practice; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 220

SHORT TITLE: RETIREMENT SYSTEMS; DEFINED BENEFIT OPT.

SPONSOR(s): REPRESENTATIVE(s) HOPKINS

05/19/21	(H)	READ THE FIRST TIME - REFERRALS
05/19/21	(H)	L&C, FIN

11/08/21	(H)	L&C AT 4:00 PM ANCH LIO DENALI Rm
11/08/21	(H)	Heard & Held
11/08/21	(H)	MINUTE(L&C)
01/19/22	(H)	L&C AT 3:15 PM BARNES 124
01/19/22	(H)	Heard & Held
01/19/22	(H)	MINUTE(L&C)
01/26/22	(H)	L&C AT 5:15 PM BARNES 124

BILL: HB 159

SHORT TITLE: CONSUMER DATA PRIVACY ACT

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/31/21	(H)	READ THE FIRST TIME - REFERRALS
03/31/21	(H)	L&C, JUD, FIN
04/23/21	(H)	L&C AT 8:00 AM GRUENBERG 120
04/23/21	(H)	Heard & Held
04/23/21	(H)	MINUTE(L&C)
05/05/21	(H)	L&C AT 3:15 PM BARNES 124
05/05/21	(H)	Heard & Held
05/05/21	(H)	MINUTE(L&C)
05/12/21	(H)	L&C AT 3:15 PM BARNES 124
05/12/21	(H)	Heard & Held
05/12/21	(H)	MINUTE(L&C)
12/06/21	(H)	L&C AT 1:00 PM ANCH LIO DENALI Rm
12/06/21	(H)	Heard & Held
12/06/21	(H)	MINUTE(L&C)
01/21/22	(H)	L&C AT 3:15 PM BARNES 124
01/21/22	(H)	Heard & Held
01/21/22	(H)	MINUTE(L&C)
01/26/22	(H)	L&C AT 5:15 PM BARNES 124

WITNESS REGISTER

REPRESENTATIVE HOPKINS

Alaska State Legislature

Juneau, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 220, as prime sponsor.

ROBERT WOODY

American Property Casualty Insurers Association (APCIA)

Washington, D.C.

POSITION STATEMENT: Testified during the hearing on HB 159.

MAYA MCKENZIE, Technology Policy Council

Entertainment Software Association

Birmingham, Alabama

POSITION STATEMENT: Testified in opposition to HB 159.

ANTON VAN SEVENTER, Council
State Privacy and Security Coalition
Washington, D.C.

POSITION STATEMENT: Testified in opposition to HB 159.

ALYSSA DOOM
Computer & Communications Industry Association(CCPIA)
Washington, D.C.

POSITION STATEMENT: Testified in opposition to HB 159.

DAVID EDMONSON, Vice President of State Policy and Government
Relations
TechNet
Austin, Texas

POSITION STATEMENT: Testified in opposition to HB 159.

ACTION NARRATIVE

[5:19:46 PM](#)

CO-CHAIR IVY SPOHNHOLZ called the House Labor and Commerce Standing Committee meeting to order at 5:19 p.m. Representatives McCarty, Schrage, Snyder, Nelson, Kaufman, Fields, and Spohnholz were present at the call to order.

^#hb220

HB 220-RETIREMENT SYSTEMS; DEFINED BENEFIT OPT.

[5:20:28 PM](#)

CO-CHAIR SPOHNHOLZ announced that the first order of business would be HOUSE BILL NO. 220, "An Act relating to the Public Employees' Retirement System of Alaska and the teachers' retirement system; providing certain employees an opportunity to choose between the defined benefit and defined contribution plans of the Public Employees' Retirement System of Alaska and the teachers' retirement system; and providing for an effective date."

[5:21:16 PM](#)

REPRESENTATIVE HOPKINS, Alaska State Legislature, commented that the bill represents an option and would simply impact individuals who became a member of Public Employees' Retirement System (PERS) Tier III or Teachers' Retirement System (TRS) Tier

IV from 2006 on. He said that the structure is said to be cost-neutral to the state.

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REPRESENTATIVE KAUFMAN shared his understanding that the premise of HB 220 is to respond to a "gap" that was created. He asked Representative Hopkins whether this legislation aims to close the gap in terms of retirements plans to ensure that workers are "made whole."

REPRESENTATIVE HOPKINS responded that, if a member of the PERS/TRS system doesn't want to switch from a defined contribution to a defined benefit system, there is language in the legislation that would allow those individuals to cash out their 401k and purchase their time to "be made whole" in that sense. He shared that there is a calculator being made to better look at those numbers. He said that the more significant gap that the legislation looks to fill is the growing gap in retention and recruitment of public safety and educators in the state. He relayed feedback that the lack of a defined benefit system is responsible for this gap.

REPRESENTATIVE KAUFMAN asked whether there's a comprehensive survey to determine what might be causing the retention issue.

REPRESENTATIVE HOPKINS responded yes, in May [2021], there was an educator retention and recruitment study done by the State of Alaska Governor Mike Dunleavy Administration, and there's another one ongoing, both looking at the reason for these issues. He relayed that the lack of defined benefits was the number three reason, preceded by salary and benefits, which are locally negotiated and not a statewide issue.

REPRESENTATIVE KAUFMAN asked Representative Hopkins whether he has received the fiscal analysis yet for the bill.

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CO-CHAIR SPOHNHOLZ responded that the House Finance Committee would be responsible for that information.

REPRESENTATIVE HOPKINS agreed, and said that there is a group putting together funding that is going to run an actuarial study for the House Finance Committee to ensure that the structure is cost-neutral to the state. He added that, while the fiscal note is indeterminate, the largest impact would be paying the

salaries for employees to answer the phones to answer questions from individuals who would like to switch from a defined benefit to defined contribution plan.

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CO-CHAIR SPOHNHOLZ added that the aforementioned survey results found that the first reason was cost of living, then salary, then retirement.

5:27:58 PM

REPRESENTATIVE MCCARTY, regarding the potential retroactive component of the bill, asked Representative Hopkins to clarify whether there would not be backpay from 2006 on.

REPRESENTATIVE HOPKINS responded that 2006 is when the Tier III PERS and Tier IV TRS systems were established. He said that the bill would only impact employees from 2006 on, which is why that year is in the bill.

REPRESENTATIVE MCCARTY asked whether a Tier IV employee could cash in Tier IV benefits and transition to a defined benefit system.

REPRESENTATIVE HOPKINS responded, "More or less, yes."

REPRESENTATIVE MCCARTY shared his understanding that there is language that implies an insurance format plan that would make it so that an employee's dependents would be able to continue getting benefits should the employee pass away. He asked whether this is accurate.

REPRESENTATIVE HOPKINS responded that it is not an insurance policy. He agreed that currently, if a person passes away and has a 401k, the spouse would receive the 401k. He said that the surviving spouse would get both the contributions from the employer and from the employee. He shared that he made a policy decision in crafting the bill to use that same structure in HB 220.

5:31:53 PM

CO-CHAIR FIELDS, in response to Representative Kaufman's questions, explained that the lack of defined benefits also is the number one issue responsible for Alaska State Trooper retention as well. He shared his understanding that due

diligence has been done and will continue to be done to ensure that the bill is cost neutral.

5:32:50 PM

REPRESENTATIVE MCCARTY asked Representative Hopkins about the difference in contribution percentage levels for different individuals. He asked for the reason for these differences.

REPRESENTATIVE HOPKINS responded that the percentages differ due to age. He said that public employees are required to have 30 years of service or be 60 years of age, which means that these employees are working longer than teachers and need to put in a smaller percentage of their salary to reach the same amount of invested money. He added that teachers need to put in more per paycheck because teachers are able to retire after 25 years of service, or at age 55.

5:34:45 PM

REPRESENTATIVE KAUFMAN shared his understanding that the aforementioned survey shows that a defined benefit plan would be preferred. He asked Representative Hopkins why the focus is on benefits rather than teachers' pay considering that the survey found that pay was a more significant reason for difficulty in recruitment and retention.

REPRESENTATIVE HOPKINS responded that there was a study funded by the legislature in 2016 that looked at what a statewide salary schedule would look like for teachers. He said that some of those salaries would have been double or triple what teachers are currently being paid, particularly in remote villages. He said some salaries would've been around \$200,000. He said that was seen by the legislature as generally not feasible. He explained that that is why he did not look at legislating statewide salary schedules for teachers, because it would have been untenable to make it commensurate to hire someone in rural villages at the same level as individuals in larger cities.

REPRESENTATIVE KAUFMAN shared his concern that there has been a high failure rate for defined benefit plans due to the perceived future obligation placed upon the state. He asked whether Representative Hopkins feels that HB 220 proposes a different system from the ones that have failed.

REPRESENTATIVE HOPKINS responded yes, and added that Alaska is the only state that doesn't have an option for a defined benefit

plan. He said that the biggest reason the defined benefit program got "out of control" is not included in the proposed legislation, and that that is what has been done in an effort to not make future Alaskans responsible for unsustainable funds.

[5:38:40 PM](#)

REPRESENTATIVE NELSON asked Representative Hopkins whether he expects the state to run into the same problems in the future, should this bill pass.

REPRESENTATIVE HOPKINS responded no because he hopes the state learned its lesson with the actuaries. He added that since it's been over 40 years since Alaska established the Tier I system, there have been four iterations of the system, and this would be the fifth. He noted that the majority of PERS and TRS payments that are required for employees are for the people that have already retired. He said that the state has a closed system, which means there will be no additional people contributing to the pension fund.

[5:40:26 PM](#)

CO-CHAIR SPOHNHOLZ commented that there are a few provisions that prevent the same problems as the state experienced in the past with obligations that were beyond affordability. She shared her understanding that that had to do with bad actuarial analysis. She shared her understanding that the structure of the bill had been changed to ensure that if a person's pension was underfunded, then the obligation to pay increases moving forward. She noted that public employees are "hemorrhaging" in a way that's dangerous to the state. She relayed that there are divisions in the state with 20 percent vacancy rates. She highlighted that it's important to attract and retain public employees for the health of the state.

[5:42:04 PM](#)

REPRESENTATIVE MCCARTY asked if this could become similar to a life or health insurance program if there was a disability or death. He asked what kind of responsibility an individual has on the job.

REPRESENTATIVE HOPKINS responded that the responsibility of employees is to maintain their jobs. He clarified that a person wouldn't get 30 years credit in a position if that person only worked for 15 years. He explained that the surviving spouse

wouldn't be overdrawing from the fund for work that did not occur. He added that the fund would remain solvent for the amount of time worked. He said that he doesn't see it as life insurance, but as retirement.

[5:44:59 PM](#)

CO-CHAIR FIELDS moved to report HB 220 out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, HB 220 was reported from the House Labor and Commerce Standing Committee.

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[5:45:14 PM](#)

The committee took an at-ease from 5:45 p.m. to 5:48 p.m.

^#hb159

HB 159-CONSUMER DATA PRIVACY ACT

[5:48:35 PM](#)

CO-CHAIR SPOHNHOLZ announced that the final order of business would be HOUSE BILL NO. 159, "An Act establishing the Consumer Data Privacy Act; establishing data broker registration requirements; making a violation of the Consumer Data Privacy Act an unfair or deceptive trade practice; and providing for an effective date."

[5:48:49 PM](#)

CO-CHAIR FIELDS stated that amendments are being drafted.

[5:49:19 PM](#)

REPRESENTATIVE KAUFMAN noted the complicated nature of the bill.

[5:49:42 PM](#)

CO-CHAIR SPOHNHOLZ opened public testimony on HB 159.

[5:49:51 PM](#)

ROBERT WOODY, American Property Casualty Insurers Association(APCIA), noted that he works with a coalition of insurance trade associations, including the National Association of Mutual Insurance Companies(NAMIC) and the American Council of

Life Insurers (ACLI). He highlighted that insurance consumers are already protected by a strict privacy and regulatory regime by the Gramm-Leach-Bliley Act (GLBA). In addition to protecting consumer privacy, he continued, Alaska's insurance regulation requires insurers to have a comprehensive written plan to protect the security and confidentiality of data against threats and unauthorized access. He said that GLBA was enacted over twenty years ago, and expressed that it is working well to protect consumers. He said that the goal of a GLBA exemption is to ensure that insurers and consumers are not subject to a "patchwork" of state and federal laws because it's difficult to understand and accommodate. He suggested that a single set of privacy rules would be simpler. He noted that the coalition submitted a letter to the committee [hard copies included in the committee packet] with a suggestion on the wording of the exemption, and he expressed that the coalition hopes the committee takes this into consideration. He said that the coalition is also concerned about the private right of action.

[5:54:38 PM](#)

MAYA MCKENZIE, Technology Policy Council, Entertainment Software Association, testified in opposition to HB 159. She said that state privacy legislation should not conflict with existing children's privacy laws. She stated that while she doesn't support the bill, she supports some additional amendments. She suggested that the bill should clarify that a business shouldn't process data from a consumer under the age of 13, unless provided by the Children's Online Privacy Protection Act (COPPA). She shared her understanding that the proposed legislation deviates from COPPA's standard for determining age, and suggested that AS 45.48.845(b) be deleted from the bill. She expressed that failing to remove this section would create unnecessary confusion. Finally, she suggested an amendment to clarify that parental consent that is obtained, as provided by COPPA, would be sufficient consent under the bill. She said that this would ensure that existing practices would not "run afoul" of state law.

[5:57:37 PM](#)

ANTON VAN SEVENTER, Council, State Privacy and Security Coalition, testified in opposition to HB 159. He shared his understanding that the bill contains "outlier requirements" that are found in no other state law and could lead to confusion. He highlighted the proposed requirement for businesses to comply with global privacy control, which he said would create

technical impracticalities and would "undermine consumer choice." He shared his understanding that the global privacy control doesn't reflect the aims of the proposed legislation. He said the bill would prevent consumers from actively choosing to permit certain sites to collect or disclose information. He highlighted the "underlying" private right of action component of the bill, which he said have been shown to fail to compensate consumers, even when a violation has been shown. He expressed that the bill also includes "vague and overbroad" definitions, and suggested that the bill's language be clarified and updated.

[6:00:25 PM](#)

ALYSSA DOOM, Computer & Communications Industry Association(CCPIA), testified in opposition to HB 159. She explained that CCPIA is a non-profit that represents small to large communication and technology firms. She emphasized that CPIA supports a uniform approach to technology legislation to promote regulatory certainty. She said that CCPIA has concerns about adopting legislation that is specific to each state, which she opined would contribute to the "patchwork" of laws.

[6:02:12 PM](#)

DAVID EDMONSON, Vice President of State Policy and Government Relations, TechNet, testified in opposition to HB 159. He expressed that the technology industry is committed to consumer privacy and promoting consumer choice in determining how data is used. He said that TechNet supports a uniform standard and responsibilities for all Americans. He agreed that each state having its own laws will contribute to a steep compliance cost and consumer confusion. He expressed concern about the private right of action that is proposed by HB 159, which he said could cause "enormous liability."

[6:04:45 PM](#)

CO-CHAIR SPOHNHOLZ, after ascertaining that there was no one else who wished to testify, closed public testimony on HB 159.

CO-CHAIR SPOHNHOLZ announced that HB 159 was held over.

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[6:06:08 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 6:06 p.m.